

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:04CR139
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
AMANDA BLACK,)	
)	
Defendant.)	

This matter is before the court on the court's own motion. Yesterday Amanda Black filed an unsigned motion to vacate her sentence pursuant to 28 U.S.C. § 2255. (Filing 1.) The index to that 107-page submission indicates that contained within it are a motion for discovery and a motion for appointment of counsel, neither of which are signed. (Filing 1 at CM/ECF pages 31-32.)

A motion for relief under section 2255 must be signed under penalty of perjury. Though the "motion" contains retyped sections of the court's standard form for submitting motions pursuant to section 2255, including the space for declaration under penalty of perjury and signature of the moving party (filing 1 at CM/ECF pages 35-36 and pages 13-14 as originally paginated), there is no signature at all anywhere on the submission. I will order Black to file a signed 2255 motion with a declaration that it is submitted under penalty of perjury within 30 days of the date of this order.¹ Noncompliance will result in the dismissal of this action without further notice.

¹Noting that the petition for writ of certiorari regarding Black's direct appeal was denied on June 12, 2006 (filing 55), I do not now express an opinion on whether submission of this properly signed complaint will be timely for purposes of the one-year statute of limitations on section 2255 motions. Nor do I express an opinion on the merits of the section 2255 motion.

The motions for discovery and appointment of counsel contained within the original 2255 motion will not be considered by the court, as they are unsigned and were not filed as separate motions. I will direct Black to file a separate, signed motion for discovery and a separate, signed motion for appointment of counsel. The court will take no action regarding discovery or appointment of counsel unless these separate, signed motions are submitted. Black is cautioned that the court's direction to file separate motions does not necessarily mean that those motions will be granted once properly filed. Rather, this court cannot consider the motions at all until they are properly filed.

For the foregoing reasons,

IT IS ORDERED:

1. Black shall file a signed 2255 motion with a declaration that it is submitted under penalty of perjury within 30 days of the date of this order. Noncompliance will result in the dismissal of this action without further notice.
2. If Black wishes the court to consider her request for discovery and her request for appointment of counsel, she shall file separate signed motions to that effect. The court will take no action on the unsigned "motions" contained within the section 2255 motion.

June 8, 2007

BY THE COURT:

s/Richard G. Kopf
United States District Judge